

U.S. DISABILITY RIGHTS LAW: ACCESS TO JUSTICE

In the United States, persons with disabilities have the right to access the judicial process, law enforcement services, and detention facilities on an equal basis with others.

New construction: Newly constructed and altered public facilities, such as courthouses, police stations, and prisons, must comply with specific architectural standards to be accessible to persons with disabilities.

- For example, courtrooms must have accessible jury facilities (e.g., jury boxes, deliberation rooms, restrooms, and kitchens provided for juror use); witness boxes; waiting rooms; and spectator areas. Judges' benches, and court officer stations, such as those provided for clerks, bailiffs, and court reporters should be easily adaptable for when persons with disabilities are employed in those positions.
- Prisons must have accessible holding cells, including beds, benches, and toilet and bathing facilities.

Existing facilities: Where services are provided in inaccessible older buildings and facilities, public entities should relocate those services to accessible locations where necessary to provide equal access for persons with disabilities. If necessary, older existing facilities must be altered to provide accessible features.

- For example, if an old courthouse has no accessible elevator and a hearing is scheduled in a second-floor courtroom, the hearing should be relocated to a ground floor courtroom where necessary to allow a participant who uses a wheelchair to participate equally in the proceedings. If there are no accessible courtrooms or entrances, these features must be provided to make the judicial programs accessible unless doing so would constitute an undue burden.

Effective communication: Public entities must take measures to communicate effectively with persons who are deaf, hard-of-hearing, blind, have low vision, or have speech impairments. This may include ensuring that qualified oral/sign language interpreters are available to interpret court proceedings, public meetings, and in-person transactions, including investigations and arrests by police. Other measures may include the provision of real-time captioning services, assistive listening devices in courtrooms, and TTY phones for public use.

Modification of policies: Public entities may need to make reasonable modifications to policies, practices, and procedures where necessary to provide equal access for persons with disabilities, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program or activity being provided.

- For example, in prisons, where inmate telephone calls are time-limited, the prison may be required to permit inmates who use TTY phones a longer period of time to make those calls, due to the slower nature of TTY communication compared to voice communication.
- A policy prohibiting animals in a courtroom should be modified to allow persons accompanied by service animals to enter a courtroom and participate on an equal basis with others.

(Circulated by the United States during the Seventh Session of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities, January 16 – February 3, 2006)